TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 196.

JOSEPH E. BINNS, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF ALASKA.

FILED JANUARY 31, 1903.

(18,791.)

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SUPREME COURT OF THE UNITED STATES

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., AUGUST 20, 1903.

Criminal Complaint.

In the United States Commissioner's Court for the Precinct of Nome, Second Division, District of Alaska, at Nome.

UNITED STATES OF AMERICA, } ss:
District of Alaska, Precinct of Nome, }

THE UNITED STATES }
vs. } Complaint for the Violation of Section —.
JOSEPH R. BINNS. }

Joseph R. Binns is accused by W. N. Landers by this complaint of the crime of carrying on the business of a transfer company without a license committed as follows: The said Joseph R. Binns in the district of Alaska and within the jurisdiction of this court, did on the 4th day of December A. D. 1901, wrongfully and unlawfully prosecute and carry on the business of a transfer company without first applying for and obtaining a license so to do from the district court of the district of Alaska second division thereof contrary to the form of the statutes in such cases made and provided and against the peace and dignity of the United States of America.

W. N. LANDERS.

Subscribed and sworn to before me this 4" day of Dec. A. D. 1901.

T. M. REED,
U. S. Commissioner and ex-Officio Justice of the Peace.

Endorsed: No. 68 In the United States commissioner's court precinct of Nome. The United States of America *vs.* Joseph R. Binns Complaint Filed this 4 day of Dec. 1901. T. M. Reed United States commissioner. R.

2 *Warrant.*

In the United States Commissioner's Court for the Precinct of Nome, Second Division, District of Alaska, at Nome.

UNITED STATES OF AMERICA, } ss:
District of Alaska, Precinct of Nome, }

In the name of the United States of America to the United States marshal or any of his deputies for the district of Alaska, Greeting:

Information upon oath having been this day laid before me that the crime of carrying on transfer business without having first procured a license therefor, has been committed, and accusing Joseph R. Binns thereof.

You are hereby commanded forthwith to arrest the above named Joseph R. Binns and bring him before me at the U. S. commissioner's court room, at Nome, Alaska, to answer said complaint and be further dealt with as the law directs.

Hereof fail not and make return of this warrant with your doings therein.

Given under my hand this 4th day of December A. D. 1901.

T. M. REED,
U. S. Commissioner and ex-Officio Justice of the Peace.

UNITED STATES OF AMERICA, }
Second Division, District of Alaska, } ss:

I hereby certify and return that I received the within warrant this 4th day of December 1901, and that thereafter on the 8th day of January 1902, I served the same on the within named defendant by taking under arrest the within named defendant at Nome
3 Alaska on the 8th day of January 1902.

FRANK H. RICHARDS,
United States Marshal,
By JOHN H. D. BOUSE, *Deputy.*

Fees.

Services	$4
Mileage	
Attendance	
Total	$4

Endorsed: No. 68 In the United States commissioner's court precinct of Nome. The United States of America *vs.* Joseph Binns. Warrant. Filed this 13 day of Jan. 1902. T. M. Reed com'r. R.

4 In the United States Commissioner's Court for the Precinct of Nome, Second Division of the District of Alaska.

Before Hon. T. M. Reed, Commissioner.

UNITED STATES, Plaintiff, }
vs. } Notice.
JOSEPH BINNS, Defendant. }

To J. L. McGinn, assistant United States district attorney for the second division of the district of Alaska:

You will take notice that the defendant in the above entitled action hereby appeals from that certain judgment rendered in the above entitled court against the defendant, adjudging the defendant guilty of carrying on the business of a transfer company without

having procured a license, and adjudging that defendant pay a fine of ten dollars and costs taxed at ten dollars and 90/100. and be imprisoned in the district jail until such fine and costs are paid, not exceeding ten days, entered on the 17th day of January, A. D. 1902, to the district court for the second division of the district of Alaska.

ALBERT FINK,
JAMES BELL,
Attorneys for Defendant.

Service of a true copy of the within notice is hereby accepted this 1st day of Feb. 1902.

W. N. LANDERS,
Attorney for Plaintiff.

Endorsed: No. 68. United States com'n'r's court district of Alaska Nome precinct United States plaintiff *vs.* Joseph Binns defendant. Notice of appeal (Orig.) Filed Feb. 12–1902, T. M. Reed, com'r. R. clerk. Albert Fink and James Bell attorneys for def't.

5 Docket of United States Commissioner, District of Alaska, 2nd Division, Nome Precinct.

UNITED STATES
vs.
JOSEPH BINNS.

Complaint made by W. N. Landers. Offence charged: Engaging in transfer business without a license. Offence committed at Nome on the 4th day of Dec., 1901. Place of arrest, Nome. Fine, $10.00 & costs.

1901.

Dec. 4.—Complaint filed
" " Warrant issued
Jan. 13.— " returned with defendant.
Def't pleads not guilty and with the consent of dist. attorney is released on his own recognizance and cause set for trial Jan. 14th at 10 a. m.
Jan. 14, 10 a. m.—Parties appear and announce themselves ready for trial and thereupon dist. attorney makes statement of the facts he expects to prove in said cause, and def't's attorney Albert Fink, consenting that such statement comprises all the facts in said cause, it is stipulated that said cause shall be tried upon such statement, and that the same shall constitute an agreed statement of facts, and thereupon the court takes the matter under advisement until Friday, Jan. 17—at 10 a. m.

1902.

Jan. 17, 10 a. m.—The above named Joseph Binns having been brought before me, T. M. Reed, a commissioner and *ex-officio* justice of the peace, in a criminal action for the crime of carrying on the business of a transfer company without having procured a license therefor and the said Joseph Binns having thereupon pleaded not guilty, and been duly tried by me, and upon such trial duly convicted, I have adjudged that he pay a fine of ten dollars and the costs of this action, taxed
6 at 10 90/100 dollars, and be imprisoned in the district jail, until such fine and costs be paid, not exceeding 10 days.

T. M. REED,
Commissioner and ex-Officio Justice of the Peace.

Feb. 12.—Notice of appeal filed.
" " Bond on " " and approved and appeal allowed, and proceedings stayed.
Names of sureties, C. L. Morris, Nome,
L. C. Read, "
" " Transcript issued.
U. S. dist. att'y, attorney for plaintiff
Albert Fink, attorney for defendant.

Commissioner's Fees.

1901.

Dec.	4.	—Drawing complaint, oath & jurat	$1.00
"	"	Filing	.15
"	"	Issuing warrant of arrest	1.50
"	"	Return & filing	.50
"	13.	—Continuance to Jan. 17–1902	.75
"	17.	—Entering judgment	1.50
"	"	Taxing costs	1.50
			6.80
"	"	Marshal's fees	$4.00

Accrued Costs.

1902.

Feb.	12.	—Filing notice of appeal	.15
"	"	" bond on "	.15
"	"	Taking " " "	1.50
"	"	Issuing transcript	1.50
"	"	4½ folios	1.80
			5.10

7 UNITED STATES, } ss:
District of Alaska, Nome Precinct, }

I hereby certify that the foregoing pages numbered one to three inclusive, contain a copy of all the entries in my docket relating to the above entitled cause on the appeal thereof, and the annexed hereto are all the original papers relating to said cause on the appeal thereof and filed with me, and comprising pages one to seven.

Dated Feb. 12, 1902.

T. M. REED,
Commissioner and ex-Officio Justice of the Peace.

Endorsed: 154 C. U. S. *vs.* Joseph Binns. Transcript on appeal. Filed in the office of the clerk of the U. S. dist. court, Alaska, second division, at Nome, Alaska, Feb. 15 1902 H. G. Steel, clerk. By H. C. Gordon deputy clerk. Reber.

8 In the United States Commissioner's Court for the Precinct of Nome, Second Division of the District of Alaska.

Before Hon. T. M. Reed, Commissioner.

UNITED STATES, Plaintiff, }
vs. } Undertaking.
JOSEPH BINNS, Defendant. }

A judgment having been given in the above entitled court on the 17th day of January, A. D., 1902, whereby Joseph Binns was adjudged guilty of carrying on the business of a transfer company without having procured a license, and condemned to pay a fine of ten dollars and costs of suit taxed at ten and 90/100 dollars, and be imprisoned in the district jail until such fine and costs be paid, and he having appealed from said judgment and been duly admitted to bail in the sum of two hundred and fifty dollars,

We, C. L. Morris, a resident of Nome, district of Alaska, and by occupation a freighter, and L. C. Read, a resident of Nome, district of Alaska, and by occupation a freighter, hereby undertake that the above named Joseph Binns shall in all respects abode and perform the orders and judgments of the appellate court upon the appeal, or if he fail to do so in any particular, that we will pay to the United States the sum of two hundred and fifty dollars, and do further undertake and promise, on the part of the appellant, that the said appellant will pay all costs and disbursements that may be awarded against him on said appeal.

Witness our hands and seals this 1st day of February, A. D., 1902.

JOSEPH R. BINNS (*Principal*).
C. L. MORRIS.
L. C. READ.

Taken and acknowledged before me this 17th day of Feb'y 1902.

T. M. REED,
U. S. Com'r.

9 UNITED STATES OF AMERICA, *District of Alaska,* } ss:

C. L. Morris, being first duly sworn, deposes and says:—That I am a resident of the second division of the district of Alaska, that I am not a counsellor or attorney, marshal, clerk of any court, or other officer of any court; that I am worth the sum specified in the foregoing undertaking, exclusive of property exempt from execution, and over and above all just debts and liabilities.

C. L. MORRIS.

Subscribed and sworn to before me this 1st day of February, A. D. 1902.

T. M. REED,
U. S. Commissioner and ex-Officio Justice of the Peace.

UNITED STATES OF AMERICA, *District of Alaska,* } ss:

L. G. Read, being first duly sworn, deposes and says:—That I am a resident of the second division of the district of Alaska; that I am not a counsellor or attorney, marshal, clerk of any court, or other officer of any court; that I am worth the sum specified in the foregoing undertaking, exclusive of property exempt from execution, and over and above all just debts and liabilities.

L. C. READ.

Subscribed and sworn to before me this 12th day of February, A. D. 1902.

T. M. REED,
U. S. Commissioner and ex-Officio Justice of the Peace.

Feb. 12, 1902.—The foregoing bond approved and appeal allowed.

T. M. REED, *Com'n'r.*

Endorsed: 154 C United States com'n'r's court district of Alaska Nome precinct. United States plaintiff *vs.* Joseph Binns defendant Undertaking on appeal. (Orig.) Filed Feb. 12 1902. T. M. Reed, com'n'r. R. Filed in the office of the clerk of the U. S. dist. court, Alaska, second division, at Nome, Alaska, Feb. 15 1902 H. G. Steel, clerk. By H. C. Gordon deputy clerk. Albert Fink and James Bell attorneys for def't. Volume 1 page 126 Reber.

10 In the United States District Court for the District of Alaska, Second Division.

Term minutes, special February, 1902, term, begun and held at the town of Nome, in said district and division.

SATURDAY, *March* 15, 1902.

U. S. vs. BINNS. } # 154 C.

Mr. Fink stated that he was ready in this case and that the district attorney and he would agree upon a statement of facts and submit the same to the court.

11 In the United States District Court for the District of Alaska, Second Division.

Term minutes, special February, 1902, term, begun and held at the town of Nome, in said district and division.

SATURDAY, *March* 22, 1902.

U. S. vs. BINNS. } # 154 C.

Mr. Orton stated that the defendant was willing to admit in open court that the facts stated in the complaint are true and asked that the case be heard at once.

The court directed that authorities be submitted within a few days by Mr. Orton to Mr. McGinn, and that he reply thereto as soon as possible, when the matter will be taken under consideration by the court.

12 In the United States District Court for the District of Alaska, Second Division, on Appeal from the United States Commissioner's or Justice's Court for the Precinct of Nome, Second Division, District of Alaska.

UNITED STATES OF AMERICA, Plaintiff, vs. JOSEPH R. BINNS, Defendant. }

Comes now the defendant in the above entitled action and answering and pleading to the complaint herein admits that on the 4th day of December, 1901, in the district of Alaska, second division thereof, he did prosecute and carry on the business of a transfer

company without first paying for and obtaining a license so to do from the district court of the district of Alaska, second division thereof, but the said defendant further shows to the court and alleges that section 460 of the act entitled, "An act to define and punish crimes in the district of Alaska and to provide a code of criminal procedure for said district," approved March 3rd, 1899, as amended by section 29 of the act entitled, "An act making further provisions for a civil government for Alaska and for other purposes," approved June 6th, 1900, under which said section the defendant is proceeded against herein is unconstitutional and void by reason of the provisions of paragraph one of section eight of article one of the Constitution of the United States, which reads as follows:

"The Congress shall have power to lay and collect taxes, duties, "imposts and excises to pay the debts and provide for the common "defense and general welfare of the United States; but all duties, "imposts and excises shall be uniform throughout the United States."

Wherefore, the defendant prays to go hence dismissed without day.

13

ALBERT FINK,
IRA D. ORTON,
JAS. W. BELL,
Attorneys for Defendant Binns.

Endorsed: 154 crim. District court: district of Alaska: second division: On appeal from the U. S. commissioner's or justice's court for the Nome precinct, second division of the dist. of Alaska. United States of America pl'ff *vs.* Joseph R. Binns, defd. Answer and plea of the defendant. Filed in the office of the clerk of the U. S. dist. court, Alaska, second division, at Nome, Alaska, Apr. 5 1902. H. G. Steel, clerk, by H. C. Gordon deputy clerk. Ira D. Orton and Albert Fink, att'ys for defd. Reber.

14 In the United States District Court for the District of Alaska, Second Division.

Term minutes, special February, 1902, term, begun and held at the town of Nome, in said district and division.

SATURDAY, *April* 5, 1902—9 a. m.

UNITED STATES
vs.
BINNS. } # 154 C.

Opinion filed overruling objections to defendant's — and rendering judgment accordingly.

Mr. Orton asks leave to serve a written plea in the place of oral plea in order to make a record.

Mr. Orton of counsel for defendant and Mr. Fink ask for a stay of execution, both of which motions were granted.

15 In the United States District Court for the District of Alaska, Second Division.

UNITED STATES, Plaintiff,
vs.
JOSEPH R. BINNS, Defendant. } Opinion.

John L. McGinn, dept. dist. att'y for plaintiff,
Ira D. Orton and Albert Fink for defendant.

The defendant was found guilty and condemned to pay a fine and costs in the justice's court for violating section 29 of the act of Congress entieled "An act making further provisions for a civil government for Alaska, and for other purposes," approved June 6, 1900 (31 Stat. L. 321). The section mentioned provides that all persons or corporations prosecuting the lines of business therein mentioned shall apply to and obtain from this court a license so to do and pay the license fee fixed therein. Defendant was arrested and fined for carrying on the business of a transfer company without applying for and obtaining the necessary license; section 29 in specifying the classes of person- who shall pay license and the amount contains this clause "Transfer companies, fifty dollars per annum." It is admitted by counsel for defendant that he was operating as such transfer company and had not paid the license; the matter comes before the court upon an objection in the nature of a demurrer to the complaint, as well as to the evidence.

Counsel for defendant urge that section 29 of the act of Congress of June 6, 1900 (*supra*) is unconstitutional and void for the following reasons, viz: (1) That Alaska is an organized Territory; (2) that the Constitution and laws of the United States which are not locally inapplicable are extended to Alaska by section 1891, R. S. 1878; (3) that having thus formally extended the Constitution to Alaska, Congress could not thereafter pass a law for Alaska in conflict with
16 its provisions; (4) that the section in question is an excise law, and (5) therefore it is necessarily unconstitutional and void as in conflict with the provisions of section 8 of article one of the Constitution which requires all excise duties to be uniform throughout the United States.

This court will not undertake to answer in detail the many interesting and important questions propounded by counsel for the defendant. The case involves little more than an abstract question of law, for the fine imposed is only nominal and the evident purpose of the cause is to secure a final construction of the law by the courts of the highest resort. It is only fair, however, to say that I disagree with the conclusions of counsel for defendant upon the main question involved. The Supreme Court of the United States has not passed upon the points raised in this case in relation to the Territory of Alaska. I cannot find authority even in Downs *v.* Bidwell to support the argument of counsel for defendant,—but the opposite.

The circuit court of appeals for the 9th circuit, however, to which appeals lie directly from this court, has practically decided every point in controversy in this case in its relation to Alaska, and that decision will be followed by this court until modified or overruled. In the case of Endleman *v.* United States, 86 Fed. 456, the unconstitutionality of the act of Congress forbidding the sale of liquor in Alaska was urged upon practically the same grounds urged against the act in question. In answer to these objections that court said:

"The answer to these and other like objections urged in the brief of counsel for defendant is found in the now well established doctrine that the Territories of the United States are entirely subject to the legislative authority of Congress. They are not organized under the Constitution nor subject to its complex distribution of the powers of government as the organic law, but are the creation, exclusively, of the legislative department, and subject to its supervision and control."

It follows, of course, that if the Territory of Alaska is "not organized under the Constitution, nor subject to its complex distribution of powers of government as the organic law," that the provisions of section 8 of article one of that Constitution can have no such application to it as to render void the law in controversy. Cer-
17 tainly this court will not declare such a result without more support from the courts of higher authority in direct relation to the territory of Alaska. The objections of defendant are overruled and judgment rendered accordingly.

Dated this 5th day of April, 1902.

JAMES WICKERSHAM,
District Judge.

Endorsed: No. 154 crim. In the United States district court for the district of Alaska, second division. United States, plaintiff, *vs.* Joseph R. Binns, defendant. Opinion. Filed in the office of the clerk of the U. S. dist. court, Alaska, second division, at Nome, Alaska, Apr. 5, 1902., H. G. Steel, clerk.

18 At a special term of the United States district court for the district of Alaska, second division, begun and holden in the town of Nome, commencing on the 17th day of February, 1902.

THE UNITED STATES, Plaintiff,
vs.
JOSEPH R. BINNS, Defendant. } Judgment.

The above entitled action came on regularly for trial at a special term of the above entitled court begun and holden in the town of Nome, district of Alaska, commencing on the 17th day of February, 1902, and a jury trial having been expressly waived by the defendant the court proceeded to try and determine the case without a jury. And said defendant Joseph R. Binns in person and by his attorneys having filed herein an answer in words and figures as follows:

"In the United States District Court for the District of Alaska, Second Division.

On appeal from the United States commissioner's or justice's court for the precinct of Nome, second division, district of Alaska.

UNITED STATES OF AMERICA, Plaintiff,
vs.
JOSEPH R. BINNS, Defendant.

Comes now the defendant in the above entitled action and answering and pleading to the complaint herein admits that on the 4th day of December, 1901, in the district of Alaska, second division thereof, he did prosecute and carry on the business of a transfer company without first paying for and obtaining a license so to do from the district court of the district of Alaska, second division thereof, but the said defendant further shows to the court and alleges that section 460 of the act entitled "An act to define and punish crimes in the district of Alaska and to provide a code of criminal procedure for said district," approved March 3rd, 1899, as amended by section 29 of the act entitled, "An act making further pro-
19 visions for a civil government for Alaska and for other purposes," approved June 6, 1900, under which said section the defendant is proceeded against herein is unconstitutional and void by reason of the provisions of paragraph one of section eight of article one of the Constitution of the United States, which reads as follows:

"The Congress shall have power to lay and collect taxes, duties, "imposts and excises to pay the debts and provide for the common "defense and general welfare of the United States; but all duties, "imposts and excises shall be uniform throughout the United "States."

Wherefore the defendant prays to go hence dismissed without day.

ALBERT FINK,
IRA D. ORTON,
JAS. W. BELL,
Attorneys for Defendant.

And the district attorney of the United States for the district of Alaska, second division, and said defendant having submitted the cause upon the complaint herein and said answer and plea aforesaid, by reason of the law and the premises it is by the court ordered that the defendant be, and he is hereby, found guilty, as charged in the complaint, of the offense of carrying on the business of a transfer company in the district of Alaska without having paid the license therefor, and it is further ordered and adjudged that said

Joseph R. Binns be, and he is hereby, fined therefor the sum of fifty ($50.00) dollars and costs.

Done in open court at Nome, Alaska, this 20th day of May, 1902.

JAMES WICKERSHAM,
Judge of the District Court, District of Alaska, Second Division.

O. K.
J. L. McGINN.

Endorsed: 154 C. At a special term of the U. S. district court for the dist. of Alaska, 2nd div., begun and holden in the town of Nome, commencing on 17th Feb., 1902. The United States, plaintiff, *vs.* Joseph R. Binns, def't. Judgment. Filed in the office of the clerk of the U. S. dist. court, Alaska, 2nd division, at Nome, Alaska, May 20, 1902, H. G. Steel, clerk, by H. C. Gordon, deputy clerk. Journal 2, page 192. Ent. J. D. page 114.

20 In the United States District Court for the District of Alaska, Second Division.

Term minutes, special February, 1902, term, begun and held at the town of Nome, in said district and division.

TUESDAY, *May* 20, 1902—10 a. m.

UNITED STATES
vs.
BINNS. } # 154 C.

Judgment signed and filed finding defendant guilty of carrying on business of a transfer company without license and fining him fifty dollars and costs.

21 In the United States District Court for the District of Alaska, Second Division.

THE UNITED STATES OF AMERICA
vs.
JOSEPH R. BINNS, Defendant. } Petition for Writ of Error.

The defendant in the above entitled action, feeling himself aggrieved by the judgment and sentence therein, hereby prays the court to allow him a writ of error therefrom to the Supreme Court of the United States, and shows to the court that this case and the determination of said writ of error involves the construction and application of the Constitution of the United States, and also that in this case the constitutionality of a law of the United States is drawn

in question, all of which fully appears by the plea of the defendant and assignment of errors filed herein.

And your petitioner will ever pray.

ALBERT FINK,
J. W. BELL, &
IRA D. ORTON,
Attorneys for said Defendant.

It is ordered that the foregoing petition for a writ of error be and the same is hereby granted, and the cost bond to be given by defendant on said writ of error is hereby fixed at two hundred and fifty dollars.

Done in open court at Nome, Alaska, this 7th day of November, 1902.

ALFRED S. MOORE,
Judge United States District Court,
District of Alaska, Second Division.

Endorsed: 154 crim. U. S. district court, district of Alaska, second division. United States of America *vs.* Joseph R. Binns, defendant. Petition for writ of error and order allowing same. Filed in the office of the clerk of the U. S. dist. court, Alaska, second division, at Nome, Alaska, Nov. 6, 1902, Geo. V. Borchsenius, clerk. By H. A. Haagensen, deputy clerk.

22 In the United States District Court for the District of Alaska, Second Division.

THE UNITED STATES OF AMERICA *vs.* JOSEPH R. BINNS, Defendant. } Assignment of Errors.

Comes now the defendant in the above entitled action and assigns the following errors as having been committed by the said district court in the above entitled action, upon which the said defendant does and will rely upon his writ of error to the Supreme Court of the United States, viz:

First. The said district court had no jurisdiction of said action or of the person of the defendant.

Second. That said court erred in finding the defendant guilty and in pronouncing judgment upon the defendant, for that section 460 of the act, entitled "An act to define and punish crimes in the district of Alaska, and to provide a code of criminal procedure for said district," approved March 3rd, 1899, as amended by sec. 29, title I of the act entitled, "An act making further provision for a civil government for Alaska and for other purposes," approved June 6th, 1900, under which said section the defendant is proceeded against herein is unconstitutional and void by reason of being in conflict with and repugnant to the provisions of paragraph

one of section eight of article one of the Constitution of the United States which reads as follows:

"The Congress shall have power to lay and collect taxes, duties, "imposts and excises, to pay the debts and provide for the common "defense and general welfare of the United States, but all duties, "imposts and excises shall be uniform throughout the United "States."

23 Third. The complaint filed herein does not state facts sufficient to constitute a crime or public offense.

Fourth. The court erred in overruling the plea of defendant.

Wherefore defendant prays that the judgment be reversed and that this cause be remanded to the said district court, with directions to dismiss the same.

ALBERT FINK,
J. W. BELL,
IRA D. ORTON,
Attorneys for Defendant.

Endorsed: 154 crim. U. S. district court, district of Alaska, 2nd division. United States of America, *vs.* Joseph R. Binns, def't Assignment of errors. Filed in the office of the clerk of the U. S. dist. court, Alaska, second division, at Nome, Alaska, Nov. 6, 1902, Geo. V. Borchsenius, clerk, by H. A. Haagensen, deputy clerk.

24 In the United States District Court for the District of Alaska, Second Division.

THE UNITED STATES OF AMERICA
vs.
JOSEPH R. BINNS, Defendant.

Know all men by these presents: that we, Joseph R. Binns, as principal, and J. E. Crane and H. G. Martens, as sureties, are held and firmly bound unto the United States of America in the sum of two hundred and fifty dollars, to be paid to the said United States of America, to which payment well and truly to be made we bind ourselves and each of us jointly and severally, and our and each of our representatives and assigns, firmly by these presents.

Whereas, the above named defendant has sued out a writ of error to the Supreme Court of the United States to reverse the judgment in the above entitled cause entered by the United States district court for the district of Alaska, second division,

Now, therefore the condition of this obligation is such that if the above named Joseph R. Binns shall prosecute said writ to effect and answer all costs, if he shall fail to make his plea good, then this obligation shall be void; otherwise to remain in full force and virtue.

JOSEPH R. BINNS,
By JAS. W. BELL, *His Att'y.* [SEAL.]
J. E. CRANE. [SEAL.]
H. G. MARTENS. [SEAL.]

25 UNITED STATES OF AMERICA, } ss:
District of Alaska, }

H. G. Martens and J. E. Crane, the sureties to the foregoing bond being each duly sworn, each for himself, says, that he is worth the sum of five hundred dollars, over and above all debts and liabilities and exclusive of property exempt from execution.

H. G. MARTENS.
J. E. CRANE.

Subscribed and sworn to before me this 7th day of November, 1902.

W. VON DER LEITH,
Notary Public in and for the District of Alaska, Second Division.
[SEAL.]

The foregoing bond is hereby approved.
Dated Nov. 7th, 1902.

ALFRED S. MOORE, *Judge.*

O. K.
J. L. McGINN.

Endorsed: 154 crim. United States district court, district of Alaska, second division. United States of America *vs.* Joseph R. Binns, defendant. Bond on writ of error. Filed in the office of the clerk of the U. S. dist. court, Alaska, second division, at Nome, Alaska, Nov. 7, 1902, Geo. V. Borchsenius, clerk, by H. A. Haagensen, deputy clerk.

26 In the United States District Court, District of Alaska, Second Division.

Term minutes, special September, 1902, term, begun and held at the town of Nome, in said district and division, Sept. 15th, A. D. 1902.

FRIDAY, *November 7th,* 1902—10 a. m.

UNITED STATES
vs. } #154 C.
JOSEPH R. BINNS.

Petition of the defendant Joseph R. Binns for writ of error to the *the* Supreme Court of the United States.

Bond to cover costs filed in the sum of $250.00. Writ allowed by the court.

Permission of the court was asked and granted to have the date of the verification of the bond changed by the notary from Nov. 6th to Nov. 7th.

27 *Writ of Error.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable judge of the United States district court for the district of Alaska, second division, Greeting:

Because in the record and proceedings as also in the rendition of the judgment of a plea which is in said district court, before you, between the United States of America, plaintiff and Joseph R. Binns, defendant, a manifest error hath happened to the great damage of said Joseph R. Binns, as is said and by complaint appears; we, being willing that such error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the 29th day of December, 1902, in the said Supreme Court to be then and there held, that the records and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 7th day of November in the year of our Lord one thousand nine hundred and two.

[Seal United States District Court, District of Alaska, Second Division.]

GEO. V. BORCHSENIUS,
Clerk of the United States District Court,
District of Alaska, Second Division.

Allowed by

ALFRED S. MOORE,
Judge of the United States District Court,
District of Alaska, Second Division.

28 [Endorsed:] 154 crim. (Original) U. S. district court, district of Alaska, second division. United States of America, *vs.* Joseph R. Binns, defendant. Writ of error. Filed in the office of the clerk of the U. S. dist. court, Alaska, second division, at Nome, Alaska. Nov. 7–1902 Geo. V. Borchsenius, clerk. By H. A. Haagensen, deputy clerk. Filed Nov. 7, 1902. Reber.

29 *Writ of Error.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable judge of the United States district court for the district of Alaska, second division, Greeting:

Because in the record and proceedings as also in the rendition of the judgment of a plea which is in the said district court, before you, between The United States of America, plaintiff and Joseph R. Binns, defendant, a manifest error hath happened to the great damage of said Joseph R. Binns, as is said and by complaint appears; we, being willing that such error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the 29th day of December, 1902, in the said Supreme Court to be then and there held, that the records and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 7th day of November in the year of our Lord one thousand nine hundred and two.

GEO. V. BORCHSENIUS,
[SEAL.] *Clerk of the United States District Court,*
District of Alaska, Second Division.

Allowed by:
ALFRED S. MOORE,
Judge of the United States District Court,
District of Alaska, Second Division.

30 Endorsed: 154 crim. U. S. district court, district of Alaska, second division. United States of America, *vs.* Joseph R. Binns, defendant. Writ of error. Lodged copy. The within copy of writ of error lodged in the clerk's office of the district court of the district of Alaska second division for the def't in error this 7th day of Nov. 1902. Geo. V. Borchsenius, clerk dist. ct. dist. Alaska 2nd div., by John H. Dunn, deputy clerk. Reber. Filed in the office of the clerk of the U. S. dist. court, Alaska, second division, at Nome, Alaska Nov. 7, 1902 Geo. V. Borchsenius, clerk, By H. A. Haagensen deputy clerk.

31 *Citation on Writ of Error.*

UNITED STATES OF AMERICA, *ss:*

To Melvin Grigsby, United States district attorney for the district of Alaska, second division:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States to be holden at Washington on the 29th day of December, 1902, pursuant to a writ of error filed in the clerk's office of the United States district court of the district of Alaska, second division, wherein Joseph R. Binns is plaintiff in error and The United States of America is defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done in that behalf.

Dated at Nome, Alaska, this 7th day of November, 1902.

ALFRED S. MOORE,
Judge of the United States District Court,
District of Alaska, Second Division.

Personal service of the foregoing citation made on me at Nome, Alaska, this — day of November 1903 is hereby admitted.

MELVIN GRIGSBY,
United States District Attorney, District of Alaska, Second Division,
By W. N. LANDERS, *Deputy.*

32 [Endorsed:] U. S. district court, district of Alaska, second division. United States of America, pl't'f, *vs.* Joseph R. Binns, def't. Citation. Filed in the office of the clerk of the U. S. dist. court, Alaska, second division, at Nome, Alaska, Nov. 7–1902 Geo. V. Borchsenius, clerk. By H. A. Haagensen, deputy clerk. Reber.

33 In the United States District Court for the District of Alaska, Second Division.

UNITED STATES *vs.* JOSEPH R. BINNS. } Clerk's Certificate.

I, Geo. V. Borchsenius, clerk of the United States district court, Alaska, second division, do hereby certify that the foregoing is a true, full and complete transcript in the above entitled cause as appears from the records and files of this office.

I further certify that the cost of record on appeal, amounting to seven and 50/100 dollars, has been paid by Ira D. Orton, one of the attorneys for the defendant in the above entitled cause.

Witness my hand and the seal of said court this 8th day of November, A. D., 1902.

{Seal United States District Court, District of Alaska, Second Division.}

GEO. V. BORCHSENIUS,
Clerk United States District Court, Alaska, Second Division.

34 [Endorsed:] No. — In the United States district court for the district of Alaska, second division United States of America *vs.* Joseph R. Binns defendant Transcript on appeal to ninth circuit U. S. circuit court of appeals

Endorsed on cover: File No. 18,791. Alaska D. C. U. S. Term No. 196. Joseph R. Binns, plaintiff in error, *vs.* The United States. Filed January 21, 1903.